

**WILLIAMSBURG CITY COUNCIL
AUGUST 12, 2004
MINUTES**

The Williamsburg City Council held its regular monthly meeting on August 13, 2004, at 2:00 p.m., in the Council Chambers of the Stryker Building.

ATTENDANCE Present were Ms. Zeidler, Messrs. Haulman, Scruggs, Chohany and Freiling. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Department Heads: Hudson, Nester, Serra, and Yost.

CALL TO ORDER

Mayor Zeidler called the meeting to order.

COUNCIL MINUTES

Mr. Scruggs Moved Approval of the City Council Minutes of July 1, 2004. The Motion was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

Mr. Scruggs Moved Approval of the City Council Minutes of July 8, 27, 28, 2004. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

Abstain: Haulman

PUBLIC HEARINGS

PCR #04-013: Temple Beth El Request for a Special Use Permit to Convert the Single Family Dwelling at 106 Indian Springs Road to Classrooms

Reference for this item was Mr. Nester's report dated August 12, 2004. Mr. Nester used a power point presentation to help illustrate his review of this request. Temple Beth El is requesting a special use permit to convert 106 Indian Springs Road from a single family dwelling to classroom use, in conjunction with the Temple building at 600 Jamestown Road. The Temple has purchased the property on Indian Springs to meet their need for additional classroom space for 45 students. The Comprehensive plan designates this area as Low Density Single Family Detached land use, and the property is zoned RS-2 Single Family Dwelling District. Churches and other permanent buildings used for religious worship are permitted with a special use permit (SUP). He read the statement of intent for RS-2 District and noted certain additional uses compatible with single family neighborhoods are permitted with an SUP. Mr. Nester reported there are three other religious uses in this immediate area.

The Planning Commission held a public hearing on this request and recommended to City Council that it be denied. If Council determines that approval of the request is justified, they would need to approve the SUP allowing 106 Indians Springs Road to be converted to classroom use by Temple Beth El exclusively in conjunction with the Temple building at 600 Jamestown Road.

At the Mayor's request, Mr. Phillips explained the special use permit process. The process is used to more effectively regulate property use under the zoning ordinance. Virginia localities use this process which allows the governing body to determine whether a permitted use is acceptable in a specific location, and allows for the governing body to impose conditions to be placed on the SUP. SUPs are considered on a case by case basis by governmental authority. Each piece of land is unique.

Mr. Haulman clarified that if the use permitted under a special use permit no longer exists, or if ownership of the property should change, the SUP would terminate and the property would revert back to its original use.

Mayor Zeidler opened the public hearing.

Vernon Geddy, Jr., representing Temple Beth El, said this is the only Jewish house of worship in the area. It has a membership of 175 families and its school serves 45 children. Currently, the temple holds Sunday School in two shifts to accommodate the children because there is not enough space. The Temple purchased the house on Indian Springs when it came on the market to use as a classroom. He cited the letter of support from Tori Gussman included in the report that noted that the Temple's lot is shallower than others on Jamestown Road. If the SUP is approved, the single family residence would be renovated for use as a Sunday School classroom. Students would enter the Temple from Jamestown Road to access Sunday School. The Temple has no plans to make the property available to other civic groups. There would be no additional students, no increase in traffic, or additional parking required. This would be a less intense use than use as a rental property and this use has no adverse impacts. The Temple will continue to be a good neighbor. This SUP will not set a precedent for this neighborhood and it is not a commercial use. This is not a request to change the zoning of the property, and if the Temple ceases to use the property as a classroom, it will convert back to single family use. This is a religious use and can be permitted with a special use permit. Houses of worship are part of our community in our city and do abut neighborhoods. The granting of this permit will in no way set a precedent.

Mr. Geddy agreed with Mr. Nester's recommendation and was of the opinion that the Planning Commission's decision was wrong. He asked for approval of the special use permit to allow Temple Beth El to continue its religious education program and remove this rental property from the neighborhood with no adverse impact. Mr. Geddy asked the people attending the Council meeting to stand if they supported the request. The majority of the people in the Council Chambers stood. He confirmed the traffic impact would be minimal. Some parents will only have to make one trip to Sunday school instead of two trips.

Andy Ballentine, Pastor at St. Stephens Church, 210 Kingswood Drive, thanked Council for their review of this request. Temple Beth El has been an important partner to other churches in this area. They promote tolerance, good will, and understanding in our diverse community. It is important for the Temple to have a presence on Jamestown Road and to be available to the College campus. He would not like to see the Temple move from town. A synergy of tolerance, good will, and understanding does exist, and he asked Council to support the work of Temple Beth El.

Christine Faia, 128 Mill Neck Road, property owner at 202 Indian Springs, asked that Council support this request. This religious use serves as a buffer for the neighborhood. She was surprised to hear that the Planning Commission denied the request. The Temple maintains their property very well. This proposal would be good for the Temple and good for the neighborhood. She endorsed the request, and supports and trusts a good neighbor.

Alan Fuchs, 21 Walnut Hills Circle, lives behind Walnut Hills Baptist Church and teaches at William and Mary. Often there is a conflict between the rights of individuals and the betterment of the community. There is no conflict here—this is a win-win situation. It will benefit the community and the property. School use is better than rental use; the proposed use will enhance the quality of religious and ethical education. He urged Council's support for the greater good of the community.

Stuart Goddin, 715 Goodwin Street, provided Council with a copy of his prepared statement (see attached). He asked that Council provide assurance that its decision regarding this request will not set a precedent regarding the incursion of non-residential uses into single family neighborhoods, that the use will not increase traffic or parking, and to make sure that it will revert back to single family use.

Chips Houghland, 145 Hunting Cove, former Council member, said it was nice to be at the meeting. Council has a goal of protecting neighborhoods. The college has abrogated its responsibility for student housing and as a result, students are crowding into single family neighborhoods. If approved, this request would keep the property out of the rental market. He urged Council to vote in favor.

Donald Grosse, 200 Indian Springs, a neighbor of the Temple, spoke in support of the request. He noted that owner occupied single family housing is an endangered species. The synagogue serves as a buffer between the neighborhood and Jamestown Road. He was pleased that the property would no longer be a rental.

Louise Hutchinson, 112 Indian Springs Road, noted that houses of worship in the city are experiencing growth problems, as are other institutions. She cited many churches in the city that are renovating and expanding. The Temple is a good neighbor and she supports this request.

Gabe Koz, MD, 306 Indians Springs, spoke in support of the request. This is a win-win situation for our City Council and the community. Mr. Bill Barner, Broker, helped the Temple purchase the house and to take it off the rental market. He asked for Council's support of the SUP.

Jane Rackley, 627 Powell Street, said that Temple Beth El is a respectful and quiet neighbor. She did have concerns that what was stated publicly would actually be done.

Julius Dell, 322 Indians Springs Road, spoke in support of Temple Beth El's request for the SUP. If Council approves the request, he would like the approval to include Council's assurance that this would not set a legal precedent. He noted that he had previously provided a point paper which recommended approval with that one caveat. He was reassured by Mr. Phillips and Mr. Geddy's comments, but had misgivings. He believed that something should be done about the incursion of rental property in neighborhoods.

Bob Welsh, 326 Burns Lane, spoke in support of Temple Beth El. They are a marvelous citizens and an addition to the community. He appreciated the concerns and appreciated the assurances stated by Mr. Phillips. He would support anything that would limit student rentals. He had a bad experience with student renters.

Chiles Larson, 602 Indian Springs Court, supported the request, but was concerned about neighborhood encroachment and what would happen to the property should the synagogue move. While he was excited about this property being improved, he felt the Temple was slow to clean up the property.

Barbara Levine, 116 Windsor Way, Past President of Temple Beth El, supported the request. The Temple has provided good will in the community for more than 40 years, and has provided an important service to the community and visitors. They would like to stay at their present location because their presence is important to the city. The SUP would limit the use of the building by the Temple and will revert to single family residence should it no longer be used by the Temple. She urged Council to show their good will.

Rich Higgins, 117 Holly Grove, was a parent of a child at the Temple. Religious education and training are important. As to encroachment, there is a difference between a religious use and rental/business use. Church properties increase the value of single family homes. Commercial use decrease values. This will not set a precedent.

No one else wished to speak. The public hearing was closed.

Following the public hearing, Council members commented on the request.

Mr. Haulman favored support of the request. The nature of a special use permit and the special use permit process eliminates concern about precedent. In terms of setting a precedent, the protection of neighborhoods is a top priority of Council. This request enhances central city neighborhoods. He would support wording to the effect that this SUP would not set a precedent, although he did not believe it necessary, given Council's commitment to the protection of neighborhoods.

Mr. Bill Barner replied to Mr. Chohany that the Graves family owns the property to the right of the Temple. Mr. Nester said that the house on Indian Springs could not be expanded without another special use permit. Mr. Chohany said this is about a church in a neighborhood; it is a good thing. He supported the request for the SUP.

Mr. Scruggs commented that this request fits the intent of the Comprehensive Plan. He believed the intent of the Planning Commission was to protect the neighborhood when they denied the request. Protection of neighborhoods is a fundamental issue for Council. The special use permit process does not set a precedent. Churches are not parasitic. The fact that the synagogue does not have additional property on their site is of note. The city assessor did not know of one instance when a church devalued property. Mr. Scruggs would support the request.

Mr. Freiling said that if churches are not in neighborhoods, then where? Places of worship, education, and other gathering places are the ties that bind neighborhoods into communities. Places of education and worship are the heart and soul of a community. A special use permit is designed to address a case-by-case review, analysis and subsequent decision. This does not create precedence and is not detrimental to the surrounding neighborhoods. This property is connected to the Temple property, and the combined parcel would be consistent with adjacent properties.

Mayor Zeidler supported the request. The SUP and use of the house as a classroom will help Temple Beth El to better do what they already do well. The concerns of residents have been addressed. If the house is no longer used as a classroom, it will convert to single family use. The City Attorney has said that this sets no legal precedence. Should Council consider other special use permits, they would look at other unique pieces of property and evaluate them based on impact to the surrounding neighborhood. She agreed with the Planning Director that this request has a low impact on the neighborhood and high impact on the Temple and its work.

The Mayor thanked everyone for their thoughtful views, for and against, and for all the letters, e-mails, and telephone calls. Council members considered them and have addressed concerns.

Mr. Scruggs Moved That City Council Approve PCR #04-013, the Request of Temple Beth El for a Special Use Permit Allowing 106 Indians Springs Road to be Concerted to Classroom Use to be Used by Temple Beth El in conjunction with the Temple Building at 600 Jamestown Road.

Mr. Haulman suggested that the motion be amended to insert the word "exclusively" before the words "in conjunction." Mr. Scruggs accepted the amendment.

The Motion Was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

ARB #04-049: Appeal by Bruton Parish Church of the Decision of the Architectural Review Board to Deny Their Request at 314 Prince George Street to Remove the Existing Wood Siding and Replace with Hardiplank Siding

Reference for this item was Mr. Nester's report dated August 12, 2004. Carolyn Murphy of the Planning Department reviewed the report on this appeal. On May 25 the ARB denied the application of Bruton Parish Church to remove the existing wood siding from the rectory and replace it with Hardiplank siding which was not in accordance with Design Review Guidelines. The building is located in the city's listing of Locally Significant Architecture and Areas which indicates a Colonial Revival structure, constructed in 1935. The building is in close proximity to the Colonial Williamsburg Historic District and the colonial Timson House. The ARB was following the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. City Council must decide whether to affirm, reverse, or modify, in whole or part, the decision of the ARB to deny the request of the church.

Mayor Zeidler opened the public hearing.

Helen Phillips, Senior Warden, Bruton Parish Church, asked Council to compare a sample of wood siding and of Hardiplank siding. The church will preserve the character of the property with the use of Hardiplank. A one time application of Hardiplank would serve the church for 25 years and help make money available for other purposes. The church is committed to being a good steward of church funds. Ms. Phillips respectfully asked for approval of the appeal.

Julius Dell Springs Road, 322 Indian Springs Road, said that his house has a similar material to Hardiplank. While he has the utmost respect for the ARB, you cannot tell the difference between the Hardiplank and wood siding. This is an economic decision, and the Hardiplank siding is very durable and will last 50 years. He supported approval of the appeal.

No one else wished to speak. The public hearing was closed.

Mayor Zeidler said that this was a difficult decision to make because of the economics of it. She talked with members of the ARB and other architects. The ARB made their decision in part because the guidelines do not permit flexibility and Hardiplank is a thinner material than wood siding, which would not be an exact fit and would alter the looks of the house.

Mr. Haulman was of the opinion that Hardiplank would make a difference. An all wood house is worth the money to maintain it.

Mr. Chohany said it is costly to maintain the integrity of a historic building. He observed the application of Hardiplank in comparison with natural wood siding. Hardiplank looks good on the surface, but you can tell the difference. The use of Hardiplank would set precedence, especially if used in a historic or historic registry area. He agreed with the ARB's decision and their reasons for denial.

Mr. Scruggs believed it was important to preserve the wood and brick historic homes in neighborhoods. Hardiplank may be acceptable in certain instances. He understood the ARB's action and concurred. He noted that many people would love to buy this house and restore it.

Mr. Freiling understood the economic impact on the church. This house repeals paint! Approving the request would go against the guidelines. This is a sensitive piece of property and although not in the Historic Area, its architectural character is representative of the surrounding area. It is an artifact and preservation of the siding is part of the artifact.

The Mayor was sympathetic to the church and understood it is difficult to maintain the painted siding on this building. The ARB applied their guidelines fairly and with integrity.

Responding to Mr. Chohany, Ms. Murphy said she knew of no other review board that would be able to render a decision on this matter.

Mr. Haulman Moved That City Council Confirm the Decision of the Architectural Review Board to Deny ARB #04-049, the Request of Bruton Parish Church to Remove the Existing Wood Siding for Replacement with Hardiplank Siding at 314 Prince George Street. The Motion was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

Amendment to Rental Inspection Ordinance, *Proposed Ordinance #04-21*

Reference for this request was the City Attorney report dated July 27, 2004, which included a copy of the proposed ordinance. Mr. Phillips said that last year City Council enacted an ordinance in compliance with Code of Virginia 36-105. Since that time a lawsuit has been filed against the city with no decision to date. Recent changes made in the state code are the result of compromise during the General Assembly legislative process, which allows the rental inspection program to continue with some administrative modification. The recent legislation confirms that localities can have rental ordinances, what they can require, and how they should be implemented. The proposed ordinance, if approved, reconfirms the four conservation districts and confirms that Council heard a presentation from staff as to why the city should have districts and has heard citizen comment. The proposed ordinance brings the city's existing ordinance into compliance with state legislation.

Mr. Nester and Mr. Catlett reviewed the location of the four rental inspection districts and criteria for each: "District 1 –Richmond Road Area", "District 2 - Jamestown Road Area", "District 3 - Capitol Landing Road and Page Street Area" and "District 4 - York Street Area". Information concerning the number of rental properties and various neighborhoods in the districts was presented. Mr. Catlett reviewed a property maintenance history of the districts and an overview of property conditions revealed during maintenance inspections.

Mr. Phillips said that Chip Dicks, Attorney for the Virginia Association of Realtors was present. As outlined in his report, Mr. Phillips reviewed the new code changes and amendments. He said that the Code Compliance office will have to reissue notices, and all of the units with a current certificate of compliance will be eligible for a four-year certificate.

Mayor Zeidler opened the public hearing.

Chip Dicks, representing the Virginia Association of Realtors and Williamsburg Association of Realtors, stated that the Realtors support the revised ordinance and support the enforcement of the Statewide Building Code, as well as those conditions that effect safety and sanitary living conditions. This is a balance for the rights of property owners versus the overall public good to make sure that properties do not run down and compromise the values of neighborhoods and the safety of residents. Mr. Catlett and his staff are granted a great deal of discretion to implement these ordinances. The VA Association of Realtors is ready to dismiss their law suit against the city, without a decision. This proposed ordinance brings the city into compliance of the new law. Regarding the Comprehensive Plan, he suggested creating an incentive to the private sector to redevelop some of the districts into higher scale condominium use which would be highly desirable properties. Neighborhoods that have three bedrooms, one bath properties lend themselves to rental. He appreciated working with city staff and the attorneys, and looked forward to closing the rental issue and working together for the overall betterment of Williamsburg.

Julius Dell, 322 Indian Springs, urged Council to support this ordinance. The fees are too small to make an impact. He liked the idea of re-inspection. He was concerned that the ordinance did nothing to help the city to enforce regulations concerning the number of people that rent together. Absentee landlords should be held accountable for the condition of their property and for their renters. He did not favor condominiums in our city.

Tom Mainor, 506 Newport Avenue, said that Williamsburg is unique in that we do provide student housing. Students contribute to the unique character of our community. He would hate to see Council's and the community's prerogative to descend from State Wide regulations that are more easily controlled by the Real Estate Industry out of Richmond. We have a need for mixed neighborhoods with low and moderate incomes, and that should be quality housing. That will keep our neighborhoods up. He supported monitoring of the quality of rental housing. He urged Council to look at this carefully.

No one else wished to speak. The public hearing was closed.

Mr. Phillips said that Virginia is a Dillon Rule State and must comply with State Laws. Mr. Phillips recommended that Council first approve the districts as outlined in the ordinance and then adopt the proposed ordinance.

Mr. Haulman supported the new ordinance and said it was a good compromise. He thanked Mr. Phillips for his work. This will be a model for the State, and Williamsburg will be a leader.

Mr. Chohany supported the rental regulations. He and Mr. Phillips discussed civil penalties for non-compliance and the injunction proceedings.

Mr. Scruggs said there is a valid economic issue to rental property, and owners of rental housing have told them that the inspections are a good thing.

Mr. Nester replied to Mr. Freiling that the four districts have a higher percentage of rental homes than other areas in the city. Mr. Freiling was pleased with the cooperation between the realtor community and city, which will help the overall quality of life and protection of the neighborhoods.

Mayor Zeidler said the rental program has been valuable to the city. She thanked the staff for their work over the past two years.

Mr. Haulman said that this is one part of the solution of the issues that the city faces. It requires the cooperation of neighbors, landlords, renters, the city and the college and other institutions. This is a big step in the right direction.

Mr. Haulman Moved That City Council Approve the Four Districts (District 1 -Richmond Road Area, District 2 -Jamestown Road Area, District 3 -Capitol Landing Road and Page Street Area, and District 4 -York Street Area), as Set forth in Section 5-232 of Proposed Ordinance #04-21, that Establishes the Rental Inspection Districts. The Motion Was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

Mr. Haulman Moved That City Council Approve Proposed Ordinance #04-21, An Ordinance to Amend and Restate Ordinance #03-11 Originally Enacted on the 8th Day of May, 2003, Which Amended Chapter 5, Building and Building Regulations, of the Code of the City of Williamsburg, by Adding Article VII, Registration and Inspection of Rental Dwelling Units. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None (SEE ATTACHED ADOPTED ORDINANCE #04-20)

Assignment Agreement and Amended Agreement for the Purchase and Sale of High Street Property, *Proposed Resolution #04-16*

Reference for this item was Mr. Tuttle's report dated August 5, 2004. Council members discussed this matter at their work session on August 9. Mr. Tuttle explained that last May, Lerner Enterprises agreed that a successor developer would be better suited to move the High Street project forward. Jim Tucker, the city's real estate agent for the property began the search for a new developer which resulted in identification of Roseland Property Company, partnering with Poag and McEwen Lifestyle Centers.

Mr. Tuttle reviewed the summary of information provided in his report. The total purchase price for the 53 acre parcel is \$10,900,000 with a \$200,000 deposit. Uses of the property will remain the same with a mix of shopping, entertainment, dining, and residential. Roseland will have 60 days to complete surveys, tests, and studies, with a 30 day extension if needed. The agreement includes a termination clause. Roseland will follow a schedule for plan submittals to the city as outlined in the agreement. High Street will be constructed in four phases, with Phase 1 beginning as soon as permits are obtained.

Mayor Zeidler opened the public hearing.

Ben Field, Bristol Commons, reiterated to Council that this project will generate more traffic. People need public places to gather. The developers are purchasing the property for a lower value and know they are getting a good buy at 60/70% on the dollar. He was concerned about asbestos abatement before demolition starts.

Flora Adams, Goodwin Street, stated she generally supports the plan, but noted there was a lot of parking and driving surface. She urged and hoped to have public transportation, bicycling, and walking.

No one else wished to speak. The hearing was closed.

Council members discussed the agreement. The Mayor noted that there was less paved parking surface with the Roseland plan. Mr. Scruggs was pleased that Roseland was adhering to the letter of the Focus Group Report. Mr. Freiling noted there was a gathering space and park-like setting on the plan, and a variety of access points to facilitate traveling in and out of the property.

Mr. Chohany Moved that City Council Approve Proposed Resolution #04-16, Authorizing the Mayor to Execute the Assignment Agreement and Amended Agreement for the Purchase and Sale of High Street Property, and Authorizing and Directing the City Manager to Act on Behalf of the City to Accomplish Closing Under the Sale Agreement and to Take All Other Actions as May be Necessary to Effect Closing Under the Sales Agreement. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

(SEE ATTACHED RESOLUTION #04-16)

Mayor Zeidler thanked Mr. Tucker.

REPORTS

Monthly Financial Statement

The Monthly Financial Report was received and ordered filed.

Monthly Departmental Operating Reports

The Monthly Departmental Operating Reports were received and ordered filed. Mr. Tuttle briefed Council on activities that were planned for returning William and Mary students. One August 20 they will be formally welcomed by Mayor Zeidler and the President of the college. On August 24, city staff and police will go door to door to residents around the college to listen and answer questions. On August 28, two gatherings will be held to establish rapport with the Jamestown Road and Richmond Road neighborhoods. On September 1, a reception will be held at the Community Building at 5:00 p.m., for Council members and Student Body representatives, preceded by a staff level meeting with the students. Later in September, 5500 Resident Information Sheets will be delivered to the students at the college. In late September or early October, a seminar is planned for students who live off campus.

The mayor thanked Mr. Tuttle for providing the information. This is a positive step to building a relationship between the city and the students, with city staff involvement.

City Manager Reports

Request of Williamsburg Redevelopment and Housing Authority for City Council Authorization to Purchase Properties (719 Lafayette Street and 100 Braxton Court)

Reference for this item was Mr. Tuttle's report dated August 3, 2004. Mr. Tuttle reviewed the information provided in his report. Mr. Tuttle received two letters from Mr. Gurganus, Executive Director of the Housing Authority, requesting Council's authorization for two property purchases. The Housing Authority plans to construct a single family home on the vacant lot located at 719 Lafayette Street and to resell it to an owner occupied family. The property located at 100 Braxton Court will be rehabilitated and sold to an owner occupied family. Mr. Tuttle recommended approval of the requests. He noted that Mrs. Scruggs and Mr. Haulman, WRHA board members were present.

Mr. Haulman spoke in support of the purchases to rehab structures in the city and add to the stock of affordable housing, and to add and insure owner occupied housing. The Housing Authority recently received approval of a block grant to improve the infrastructure in Braxton Court. It is a historic African-American neighborhood originally constructed by students lead by Mr. Braxton. Both the Lafayette Street and Braxton Court areas are critical to Williamsburg.

Mr. Gurganus provided Council with brief description of the two projects and the plans for the homes to be owner occupied.

Council members concurred in their support of the requests.

Mr. Scruggs Moved That City Council Authorize the Williamsburg Redevelopment and Housing Authority to Purchase the Property Located at 719 Lafayette Street. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:
Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany
No: None

Mr. Scruggs Moved That City Council Authorize the Williamsburg Redevelopment and Housing Authority to Purchase the Property Located at 100 Braxton Court. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:
Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany
No: None

Treyburn Drive, Stage Two Agreement

Reference for this item was Mr. Tuttle's report dated August 3, 2004. Mr. Tuttle said that in accordance with the Comprehensive Agreement for Construction of Treyburn Drive dated March 5, 2003, between the city and Massie Contractor, an amendment is needed to authorize the Stage II of the project. Stage II includes right-of-way acquisition, utility adjustments, landscape design wetland mitigation, and final construction plans. The city will be responsible for the actual costs of the property acquisition and utility adjustments, estimated to be \$1.93 million. Stage II work should be completed by February/March 2005. Stage III will be for the actual construction of Treyburn Drive. Mr. Tuttle recommended approval of this request.

Mr. Haulman Moved That City Council Authorize Execution of the Treyburn Drive Stage II Amendment to Comprehensive Agreement for the Construction of Treyburn Drive between the City and Jack L. Massie Contractor, Inc. The Motion Was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

UNFINISHED BUSINESS

PCR #03-18 and PCR #03-09: Amendment of the Zoning Ordinance to create the LB-2 Limited Business College District and Rezoning of approx. 6.1 acres in the Midtown Planning Area from B-3 to LB-2 (*Deferred at Meeting of May 13, 2004*).

Reference for this item was Mr. Tuttle's report regarding the Southern Inn Redevelopment. He gave a brief history of this zoning amendment request. Last year, Mr. Nester and he initiated a rezoning recommendation for this property on Richmond Road to be redeveloped for student oriented housing and other uses. Council deferred the matter and subsequently obtained the services of McLaughlin and Associates to conduct a community conversation with residents in the neighborhood because of considerable opposition to the proposal.

Mr. McLaughlin's final report has been received and was provided to Council members. Should City Council not favor the proposed rezoning to allow student-oriented housing, there are two options: 1) leave existing zoning alone and not attempt to encourage redevelopment of the Southern Inn site through more flexible zoning, or, 2) direct city staff to pursue changes in zoning which would allow some rental residential use (in addition to currently allowed uses) in a way more consistent with neighborhood preferences as expressed in the McLaughlin Report.

Mayor Zeidler said that Council should determine how to proceed on this matter. This proposal from the owner of the property was not well received by the neighborhood. Mr. McLaughlin met with the neighborhood, businesses, and owner of this property, and has completed his report. The report and process has been beneficial to foster open and productive dialog. The owner of the Southern Inn is very interested in redevelopment of this property in a way to benefit the city and in a way that is economically viable.

Council comments followed.

Mr. Haulman echoed the Mayor's comments. He encouraged directing staff to develop a workable solution to redevelop the property, but it will not happen under the existing zoning.

Mr. Chohany did not support student housing in the area, but favored working with the owner for flexible zoning to develop his land. The neighborhood wants a good neighbor, perhaps a retirement use or single family element. Hopefully, the Comprehensive Plan update will provide guidance.

Mr. Scruggs thanked staff for their work on this proposal, which addressed blight. The property owner is willing to work with the city to develop his property. He favored having the Planning Commission look at areas throughout the city for high density, but with good management.

Mr. Freiling said the original student housing proposal was a good concept, but not in this location. It was too dense with inadequate parking. There is great value in moving forward on the redevelopment of this property. He would not encourage rezoning, but would like to see what comes from the Comprehensive Plan update.

Mayor Zeidler said she was inclined not to approve this request and encouraged staff to pursue other zoning that might be possible for the area; residential and/or commercial if it is economically desirable. The property owner is willing to do something with this property that is right and of quality for the city. The Southern Inn property is an embarrassment.

Mr. Haulman Moved That City Council Deny PCR #03-18 and PCR #03-19: Amendment of the Zoning Ordinance to create the LB-2 Limited Business College District and Rezoning of approx. 6.1 acres in the Midtown Planning Area from B-3 to LB-2. The Motion Was Seconded by Mr. Scruggs.

Recorded Vote on the Motion:

Aye: Scruggs, Zeidler, Haulman, Chohany, Freiling

No: None

Mr. Haulman Moved that City Council Direct City Staff to Pursue Changes in Zoning Which Would Allow Some Rental Residential Use (in addition to currently allowed uses) In a Way More Consistent with Neighborhood Preferences as Expressed in the McLaughlin Report. The Motion Was Seconded by Mr. Chohany

Council members discussed the motion pertaining to the use of this property.

Mr. Haulman amended his motion to strike the words “*Changes in Zoning Which Would Allow Some Rental Residential Use*” and insert the words “*Alternative Uses Including But Not Limited to Residential Use.*” Mr. Chohany accepted the amendment.

Recorded Vote on the Motion:

Aye: Scruggs, Zeidler, Haulman, Chohany

No: Freiling

VAC #04-001: Request of Capitol Landing Hotel Associates LLC to relocate a portion of Woods Drive, Proposed Ordinance #04-13 (Deferred at the Meeting of June 10, 2004)

Reference for this item was Mr. Nester's report on this item dated August 12, 2004. Mr. Nester said that Capitol Landing Hotel Associates is requesting approval to relocate a portion of Woods Drive between the proposed Hampton Inn at 911 Capitol Landing Road and the Colonel Waller Motel at 917 Capitol Landing Road, in order to have better vehicular circulation for the proposed Inn and to provide for a better fit. Two options were proposed. Council held a public hearing on this request in June and voted to postpone their decision until they received a recommendation from the Planning Commission. At its July meeting, the Planning Commission approved the site plan, incorporating Option 2 for Woods Drive and granted the required landscape waivers and drive aisle width waiver for the Colonel Waller Motel.

Option 2: widen the existing 15 foot right-of-way to 18 feet, and build a five foot landscaped median between the Woods Drive right-of-way and the Colonel Waller Motel parking lot. This option addresses the desire of residents of Woods Drive to separate Woods Drive from the Colonel Waller parking lot, and is acceptable to the applicant. Option 2 requires a waiver of the 15 foot landscape area requirement between Woods Drive and the proposed Hampton Inn parking lot (five feet is proposed), and a waiver of driveway width adjacent to the Colonel Waller Motel parking spaces (24 feet is required, and 19.5 feet is proposed). This alternative also requires the removal of the two large Oak trees mentioned in Option 1 (the original proposal moved the 15 foot Woods Drive right-of-way ten feet to the north for 270 feet).

Mr. Nester said that should Council accept the recommendation of the planning Commission, they would need to adopt Proposed Ordinance #04-13b. If they desire to approve the original proposal, Proposed Ordinance #04-13a should be adopted.

Mayor Zeidler supported the recommendation of the Commission and believed that separating Woods Drive from the Colonel Waller parking lot was the safer option. Option 2 was preferred by the residents and owner. Council members concurred.

Mr. Patel, owner of the property, replied to Mr. Freiling that he had no preference as to the two options, but Option 2 was favored by the residents to the rear of his property. He said there were no plans to redevelop the Colonel Waller property.

Mr. Scruggs Moved That City Council Adopt Proposed Ordinance #04-13b, An Ordinance Relocating A Portion of Woods Drive. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

(SEE ATTACHED ADOPTED ORDINANCE #04-21)

APPOINTMENTS TO BOARDS AND COMMISSIONS

Appointment of Planning Commission Representative to Architectural Review Board

Reference for this item was Mr. Nester's report dated August 5, 2004. The Planning Commission recommended that Council appoint Joe Hertzler as the Commission's representative to the ARB.

Mr. Freiling Moved that City Council Appoint Joe Hertzler to Represent the Planning Commission on the Architectural Review Board to Serve a Term Coextensive with His Tenure on the Commission, expiring on December 31, 2005. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

NEW BUSINESS

Change of Date for City Council Work Session: Mayor Zeidler announced that the Labor Day holiday will fall on Monday, September 6, 2004. City Council work session will be held on Tuesday, September 7, 2004.

OPEN FORUM

Mayor Zeidler invited comments. No one wished to speak.

CLOSED SESSION

Mr. Haulman Moved that City Council go into Closed Session pursuant to Section 2.2-3711 of the Code of Virginia for the purpose of discussing one personnel matter per subparagraph 1 concerning appointments to Boards and Commissions, and two legal matters per subparagraph 7 for the purpose of consultation with legal counsel and briefings by staff members, consultants or attorneys pertaining to actual or probable litigation concerning the status of Court appointed counsel, and concerning the Rental Inspection Ordinance Declaratory Judgment Action. The Motion Was Seconded by Mr. Scruggs.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

The meeting adjourned at 5:42 p.m.

The Mayor called a five-minute recess.

At 6:15 p.m., Council met in Open Session.

Mr. Haulman Moved the Certification of Closed Meeting.

The Motion was Seconded by Mr. Scruggs.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

CERTIFICATION OF CLOSED MEETING

Date: August 12, 2004

Motion: Mr. Haulman

Second: Mr. Scruggs

WHEREAS, the City Council of the City of Williamsburg has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the City Council that such meeting was conducted in conformity with Virginia Law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Williamsburg hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the City of Williamsburg.

VOTE:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

Absent During Vote: None

Absent During Meeting: None

Appointments to Boards and Commissions:

*Mr. Haulman Moved That City Council Appoint **Mr. John Willis** to the Williamsburg Library Board for a Four-Year Term to Expire June 30, 2008; and*

*Appoint Ms. **Laura Pass Barry** to the Williamsburg Arts Commission for a Three-Year Term to Expire June 30, 2007; and*

*Appoint **Mr. Arthur Sass** to the Peninsula Agency on Aging for a Three-Year Term, Effective October 1, 2004 to Expire September 30, 2007.*

The Motion Was Seconded by Mr. Scruggs.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

The meeting adjourned at 6:17 p.m.

Approved: September 9, 2004

City Council Meeting
August 12, 2004

Shelia Y. Crist
Clerk of Council

Jeanne Zeidler
Mayor